

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

Prabhu Lal Patel

Vs. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.7064/2005

DATE OF ORDER

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April 04, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Tribhuvan Gupta, for the petitioner.

Mr.B.L.Tiwari, Deputy Government Advocate.

None present for the respondent No.3 though served.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks direction to the respondents to pay the honorarium to the petitioner for the period commencing from February, 2003 till date and also seek direction to restrain the respondents and its functionaries from removing the petitioner from the post of Shiksha Sahyogi.

I have heard learned counsel for the parties.

It is submitted by the learned counsel for the petitioner

that by order Annexure-1, a panel was prepared by Gram Sabha, Asariwara, Panchayat Samiti, Kherwara; petitioner's name finds place in the panel at serial No.12 and, thereafter the petitioner has been working as Shiksha Sahyogi, he has been paid the honorarium w.e.f. 18.7.2002 to January, 2003. However, for the period February, 2003 and onwards, he has not been paid the honorarium.

Learned counsel submits that by Annexure-4, respondent No.3 requested the Additional Development Officer, Panchayat Samiti, Kherwara for releasing the honorarium in favour of the present petitioner.

A reply to the writ petition has been filed by the respondents No.1 and 2. Along with the reply, the respondents have placed on record Annexure-R/1, a resolution of the Gram Panchayat, Asariwara, whereby as many as 11 persons were selected and the panel of 11 persons for the post of Shiksha Sahyogi was prepared, which has been signed by the various Ward Panchas and Sarpanch of Asariwara. In the reply, it has been contended that the petitioner did not appear before the Gram Panchayat on the date of selection i.e. 20.5.2001 as it is evident from the document Annexure-R/1, the resolution passed by the Gram Panchayat and, therefore, the appointment of the

petitioner by the respondent No.3 is contrary to the resolution passed by the Gram Panchayat and, therefore, he is not entitled for salary as well as to be continued on the post, which he acquired in connivance and collision with the respondent No.3.

I have given my thoughtful consideration to the rival submissions made by the learned counsel for the parties.

It appears that Annexure-1 dt. 20.5.2001 bears signature of only Sarpanch and by this document, it appears that for Rajeev Gandhi School, as many as 12 forms have been received and a panel has been prepared. So far as Annexure-R/1 is concerned, as many as 11 persons, whose names have been mentioned in Annexure-1 at serial No.1 to 11, appeared before the Gram Panchayat, Asariwara and a panel has been prepared, which bears the signatures of the Members of the Gram Panchayat as also the Headmaster of the school and that of the Sarpanch.

Vide Annexure-4, respondent No.3 requested the Additional Development Officer, Panchayat Samiti, Kherwara for releasing the honorarium in favour of the petitioner stating therein that for the Gram Panchayat, Asariwara, Rajeev Gandhi Pathshala has been functioning in village Karmala since

2.7.2001 and one Vela Ram was appointed as Shiksha Sahyogi; on his selection being made as third grade teacher, he resigned on 17.7.2002 and in the resolution of the Gram Panchayat dt. 20.5.2001, after the name of Vela Ram, the name of the present petitioner appeared and he is eligible and, therefore, he has been appointed as Shiksha Sahyogi on 18.7.2002 and since then, he has been working as Shiksha Sahyogi.

Vide Annexure-6, it has been stated that the petitioner has been paid honorarium from 18.7.2002 to January, 2003. Vide Annexure-5, the appointment of the petitioner as Shiksha Sahyogi has been approved by the Gram Sabha on January 26, 2003. Vide Annexure-7, the petitioner along with other persons, whose names have been mentioned in Annexure-7 dt. 7.5.2005, was required to attend the training. It appears that the matter was carried to the Additional Collector (Vigilance) , Udaipur and a meeting was held on 15.9.2005. The illegality in the appointment of the petitioner came to be considered but it appears that the matter has been deferred. Be that as it may, the petitioner has been continuing in service as Shiksha Sahyogi w.e.f. 18.7.2002 and has been paid honorarium up to January, 2003 and by an ad interim order of this Court dt. 14.12.2005, he has been continuing on the post of Shiksha Sahyogi and, therefore, in my view, the petitioner is entitled for the honorarium applicable to

the post.

Without examining the question of the illegality of appointment of the petitioner, in my view, the petition deserves to be allowed to the extent directing the respondents to pay the honorarium to the petitioner.

In this view of the matter, the petition is allowed to the extent that the respondents are directed to pay the honorarium to the petitioner w.e.f. March, 2003 till he worked with the respondents. Ad interim stay order dt. 14.12.2005 is vacated. Stay petition stands disposed of.

There shall be no order as costs.

[H.R.PANWAR],J.

m.asif/-